

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2018-____-C

Application of)	
)	
Peak Tower, LLC)	MOTION FOR PROTECTIVE
)	TREATMENT AND BASIS FOR FILING
for a Certificate of Public Convenience)	EXHIBIT B TO APPLICATION AS A
and Necessity to Provide Resold and)	TRADE SECRET
Facilities-Based Local Exchange,)	
Exchange Access and Interexchange)	
Telecommunications Services in the State)	
of South Carolina, and For Alternative)	
and Flexible Regulation)	

Peak Tower, LLC (“Applicant”), by counsel and pursuant to S.C. Code Ann. § 39-8-10, *et seq.*, S.C. Code Ann. Regs. 103-804(S)(2) and Commission Order No. 2005-226, hereby files this Motion for Protective Treatment (“Motion”) in the above-captioned proceeding. By this Motion, Applicant seeks protective treatment by the South Carolina Public Service Commission (“Commission”) of certain commercially-sensitive financial information attached as Exhibit B, filed as Trade Secret to its Application for Authority to Provide Resold and Facilities-Based Local Exchange, Exchange Access and Interexchange Telecommunications Services. Because this Motion is an inseparable part of the Application, it is being filed concurrently therewith.

In support of this Motion, Applicant provides the following:

1. The legal name, address, telephone and fax numbers of the Applicant are:

Peak Tower, LLC
 591 Lytton Ave.
 Palo Alto, CA 94301
 Tel. (251) 662-1170

2. All correspondence, notices, inquiries, and other communications regarding this

Motion should be addressed to:

John J. Pringle, Jr.
 Adams and Reese LLP
 1501 Main Street, 5th Floor
 Columbia, SC 29201
 Phone: (803) 343-1270
 Fax: (803) 779-4749
jack.pringle@arlaw.com

I. Description of Confidential Information

The Application requires Applicant to disclose evidence of its financial ability to provide service by submitting documentation of its financial resources. Pursuant to this requirement, Applicant is submitting its unaudited financial statements. This information contains highly confidential and strictly proprietary information, the public disclosure of which would result in direct, immediate and substantial harm to Applicant's competitive position in South Carolina and in other states where Applicant is currently doing business.

II. Grounds for Claim of Confidentiality

The financial information submitted by Applicant in Exhibit B of its Application fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act.¹ Moreover, the information contained in Exhibit B qualifies as "trade secret" exempt from disclosure pursuant to S.C. Code Ann. § 30-4-40(a)(1) of the South Carolina Freedom of

¹ A "trade secret" is defined in S.C. Code 39-8-20(5)(a) as information that "(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public...and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Information Act. As a privately-held company, Applicant's financial qualifications are not readily ascertainable. Applicant currently has no legal obligation to prepare or submit projected financial statements, or to report any financial information to a public entity. Further, the unavailability of this information derives independent economic value for the Applicant because the disclosure of such information would harm its ability to compete in the provision of advanced telecommunications services in South Carolina. Applicant is not a public entity and its financial and business information is uniquely sensitive.

Applicant takes considerable efforts to maintain the secrecy of the information contained in its financial statements. Financial information of this type is not publicly disseminated, and Applicant takes reasonable steps to guard this information internally as well. Its disclosure is limited to Applicant's senior officers, its counsel and employees of the company who are directly involved with its financial operation. Furthermore, when required to submit financial information to public authorities, all such information is clearly stamped "confidential" and is accompanied by formal requests to maintain the confidentiality of the information and to withhold it from public disclosure.

Applicant clarifies that its request for protection applies only to the financial information contained in Exhibit B to the Application. Applicant is not seeking protection of any type by means of this Motion for those reports it will be required to file with the Office of Regulatory Staff ("ORS") should the relief sought in the Application be granted: the Annual Report From, Gross Receipts Report, or the Universal Service Fund Worksheet.

III. Conclusion

The financial information included in support of the Application, for which confidential treatment is requested, is both proprietary and competitively sensitive. Applicant would suffer

substantial direct harm if such information is made publicly available. The harm that would result from public disclosure of Applicant's financial information is real and not speculative. Moreover, to date, no other jurisdiction has required Applicant to make its financial information publicly available. For the foregoing reasons, the financial information included in Exhibit B should be protected from public disclosure by the Commission.

WHEREFORE, Applicant requests that the Commission rule that the information contained in Exhibit B of the Application for a Certificate of Public Convenience and Necessity be ruled exempt from public disclosure and provided confidential treatment in accordance with S.C. Code Ann. § 39-8-10, *et seq.* and other applicable law, and grant such other relief as is just and proper.

Respectfully submitted,

Peak Tower, LLC

By: s/John J. Pringle, Jr.
John J. Pringle, Jr.
Adams and Reese LLP
1501 Main Street, 5th Floor
Columbia, SC 29201
Phone: (803) 343-1270
Fax: (803) 779-4749
jack.pringle@arlaw.com

Dated: April 4, 2018

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-____-C

IN RE:)	
)	
Application of)	
)	
Peak Tower, LLC)	
)	
for a Certificate of Public Convenience and)	CERTIFICATE OF SERVICE
Necessity to Provide Resold and Facilities-)	
Based Local Exchange, Exchange Access and)	
Interexchange Telecommunications Services)	
in the State of South Carolina, and For)	
Alternative and Flexible Regulation)	
)	

This is to certify that I have caused to be served this day, one (1) copy of the Motion for Protective Treatment by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

VIA ELECTRONIC MAIL SERVICE

Jenny Pittman, Esq
Office of Regulatory Staff
Legal Department
jpittman@regstaff.sc.gov

s/ John J. Pringle, Jr.
John J. Pringle, Jr.

April 4, 2018
Columbia, South Carolina